

JORDAN SCHOOL DISTRICT

OPERATIONAL GUIDELINES

FOR

POLICY #DE505 – USE OF COPYRIGHTED MATERIALS

This document details the proper use of media resources as discussed in *Jordan School District Policy DE505, Use of Copyrighted Materials*. As stated in section III-E of this policy:

It is the responsibility of all Jordan School District educators to abide by the *Use of Copyrighted Materials* policy and the *Operational Guidelines*. Educators who violate the *Use of Copyrighted Materials Policy* and the *Operational Guidelines* will be subject to discipline under Policy DP316. Students who violate the *Use of Copyrighted Materials Policy* and the *Operational Guidelines* will be subject to discipline under Policy AS67 and Policy AA419.

The following information details proper usage guidelines.

I. Videos, DVDs, and TV Programs

Educators are expected to follow Fair Use Guidelines that allow videos, DVDs, and taped TV programs to be used for direct instruction in the classroom, but not for reward or entertainment.

A. Ratings Guidelines

1. Elementary schools may use only those videos with a Motion Picture Association of America (MPAA) rating of G.
2. Middle schools may use only those videos with MPAA ratings of G. PG rated videos may only be used after obtaining written, parent permission.
3. High schools may use only those videos with MPAA ratings of G and PG. Videos rated PG -13 may be used only with written, parent permission.

B. Approved Sources

1. Parents, students, volunteers, and educators may not show rental or personally owned videotapes or DVDs in school.
2. Educators should consult with licensed library media specialists when requesting the acquisition of videos for classroom instruction.
3. The principal and the licensed school library media specialist of each school must approve all videos and DVDs purchased by the school.
4. All videos purchased with district and/or school funds must be catalogued in the District IMC and/or school library media collection.

C. Using Videotapes with the “Home-Use Only” Warning Label

1. “Home Use Only” videos are permissible to use under Fair Use guidelines as long as they are used only for face-to-face instruction in a nonprofit educational institution. Showing a video for entertainment is not permissible without a public performance site license.
2. Educators wishing to make videos available for any type of public viewing outside of the classroom must first secure a public performance license.

D. Videotaping for Classroom Use

1. Off-air taping must be done in consultation with the licensed school media specialist or the principal.
2. A taped program must be used for direct instruction.
3. Taping from satellite or cable requires permission from the copyright holder and the payment of appropriate fees.
4. A taped program may be kept 45 calendar days after taping and then must be erased unless otherwise specified.

5. During this 45-day previewing period, the program may be used with students only during the first 10 consecutive school days.
 6. No broadcast program may be recorded off-air more than once for the same educator, no matter how many times broadcast.
 7. All copies will be governed by the same time limitations.
 8. A video program must be recorded in its entirety and not altered.
 9. Instructional television programs (ITV) may be taped or copied or retained in accordance with the duplication rights that are listed for each video.
- E. **Using Videos on Closed Circuit Television Systems (CCTV)**
It is permissible to show the following types of video programs for direct instruction on a CCTV system within a single institution if:
- a. The copyright holder gives the rights.
 - b. The video is produced by the institution and does not contain copyrighted material unless permission has been obtained.
 - c. It is a simultaneous transmission of a live broadcast.
 - d. The video was purchased with closed circuit rights or the copyright holder has granted closed-circuit rights.

II. **Photocopying**

- A. Reproducing consumable materials such as workbooks, tests, activity sheets, etc., is specifically prohibited unless otherwise specified for classroom use.
- B. Reproduction, in any form, of copyrighted or syndicated cartoon characters is prohibited.
- C. Ditto masters may not be photocopied or reproduced in any other manner unless permission is obtained.
- D. Out-of-print works may still be copyrighted.
- E. Educators may reproduce single copies of the following materials for their own study and research:
 - a. A chapter of a book.
 - b. An article from a periodical or newspaper.
 - c. A short story, short essay or short poem.
 - d. A chart, graph, diagram, or picture from a book, periodical or newspaper.
- F. Educators may reproduce multiple copies of the following materials for classroom use if the copying meets three tests: brevity, spontaneity, and cumulative effect). The source and copyright date should be cited on each copy.
 1. **Brevity**
 - a. A complete poem if less than 250 words.
 - b. An excerpt from a long poem, not to exceed 250 words.
 - c. A complete article, story or essay of less than 2,500 words.
 - d. An excerpt from a larger article, story or essay not to exceed 2,500 words or 10% of the whole, whichever is less.
 - e. One chart, graph, diagram, or picture per book or periodical issue.
 - f. Special works (anthologies) combining prose, poetry and illustrations, but limited to no more than 10% of the total.
 - g. Copying does not replace or substitute for anthologies.
 2. **Spontaneity**
 - a. Copying is by or at the direction of the teacher.
 - b. The time period between the discovery of the material and the day it must be used in the classroom is too short to obtain permission.
 3. **Cumulative Effect**
 - a. Copying must not be used as a substitute for purchasing materials.
 - b. Copying is made for one course only and the item may not be reproduced from term to term.
 - c. No more than one work from a single author may be copied.
 - d. No more than three authors from a collective work may be copied.
 - e. During one class term, no more than nine instances of such multiple copying may occur.

III. Music

A. Classroom Use of Music

Audio programs in the classroom must be:

1. Legally acquired.
2. Directly tied to curriculum lessons or learning objectives.
3. Used when the teacher made the decision to use the recording.
4. Age appropriate or have no rating.

B. Copying of Music

1. Permitted:

- a. Making a copy of a lost part in an emergency for a performance if it is replaced with a purchased part as soon as possible.
- b. Making one copy per student of up to 10% of a musical work for class study as long as that 10% does not comprise a performable unit.
- c. Making a single copy of an entire performable unit (section, movement, aria, etc.) for the teacher to use solely for his or her scholarly research or in preparation to teach a class if the unit is out-of-print or unavailable except in a larger work.
- d. Editing or simplifying if the fundamental character of the work is not distorted or the lyrics are not altered or added to in any way.
- e. Making a single copy of a student(s) performance if it is for evaluation or rehearsal purposes.
- f. Making a single copy of a sound recording (such as a tape, disc, or cassette) for the purpose of constructing aural exercises or examinations.
- g. Playing background music for an instructional purpose.

2. Prohibited:

- a. Copying to create or replace or substitute for anthologies, compilations or collective works.
- b. Copying of or from works intended to be “consumable” in the course of study or of teaching, such as workbooks, exercises, standardized tests and answer sheets, etc.
- c. Copying for the purpose of performance except as noted.
- d. Copying to avoid the purchase of music.
- e. Copying without including the copyright notice.
- f. Copying to convert from one format to another.
- g. Selling or giving away copies of recorded performances, copyrighted music or plays, unless royalty payments or other arrangements have been made with the copyright owner.
- h. Broadcasting a copyrighted musical or play over cable to classes.
- i. Duplicating audio recordings for archival, backup, or multiple use unless reproduction rights were granted at the time of purchase or obtained before the duplication process is started.
- j. Using recorded music for entertainment purposes unless royalty payments have been made to the copyright owner.

C. Public Performance of Copyrighted Materials

1. Public performance is one of the rights reserved for copyright holders.
2. Public performance is permitted in classrooms as part of face-to-face teaching in a nonprofit educational institution.
3. Use of non-dramatic literary and musical works in an assembly is permissible provided:
 - a. There is no direct or indirect admission charged and there is no commercial advantage or compensation for performers, organizers, or promoters.

- b. The proceeds, after deducting the reasonable cost of producing the performance, are used exclusively for educational purposes and not for private financial gain.

IV. **Educational Multimedia**

Multimedia presentations created by both students and educators must have a citation page which includes the source for the material and the images used in the presentation.

A. **Students:**

1. Students may incorporate portions of lawfully acquired copyrighted works when producing their own educational multimedia projects for a specific course.
2. Multimedia works made by students may be used in the class for which they were created.
3. Multimedia works made by students may be retained indefinitely in portfolios maintained by the student for job interviews, college applications, and other purposes.
4. Students in grades K-6 are granted more leeway in their use of copyrighted material in terms of the portions limitations.
5. Middle school and high school students should properly cite all sources used including images and/or graphics.

B. **Educators:**

1. Educators may incorporate portions of lawfully acquired copyrighted works when producing their own educational multimedia programs for their own teaching tools in support of curriculum-based instructional activities at educational institutions.
2. Educators may perform or display the multimedia presentations they create with copyrighted materials for curriculum-based instruction:
 - a. For face-to-face instruction or remote instruction to students.
 - b. When assigned to students for directed self-study.
 - c. In presentations to peers, i.e. at workshops or conferences.
3. Educators may retain projects indefinitely in a portfolio for later personal use purposes such as a tenure review or a job interview.
4. Educators may use their multimedia projects for instructional use for a period of up to two years. Use beyond that time period, even for educational purposes, requires permission for each copyrighted portion incorporated in the production.
5. Educators may make alterations in the portions of the copyrighted works they incorporate only if the alterations support specific instructional objectives indicating that alterations have been made.

C. **Portion Limitations**

1. **Motion Media** (film, video, television, DVD, etc.)
Up to 10% or 3 minutes, whichever is less, of an individual program.
2. **Text Material** (prose, poetry, drama)
 - a. Up to 10% or 1,000 words, whichever is less, of a novel, story, play, or long poem may be used.
 - b. Short poems of less than 250 words may be used in their entirety.
 - c. Only three poems by one poet or five poems by different poets from an anthology may be used.
 - d. For poems longer than 250 words, only three excerpts from one poet or five from works by different poets in an anthology are permitted.
3. **Music, Lyrics and Music Video**
 - a. Up to 10%, but in no event more than 30 seconds, of the music and lyrics from a single work.
 - b. Any alteration in the music must maintain the fundamental melody and basic character of the work.
4. **Illustrations and Photographs**
 - c. A photograph or illustration may be used in its entirety, but no more than 5 images by an artist or photographer may be used.

- d. If images are taken from a single collective work, no more than 10 % or 15 images may be used.
 - 5. **Data Sets** (computer databases or spreadsheets):
Up to 10% or 2,500 fields or entries, whichever is less.
 - 6. Any use of materials in a single term beyond the above limitations will require specific permission for each item.
 - D. **Copying and Distribution Limitations**
 - 1. A total of three copies of a multimedia production may be made, with one copy reserved for back-up purposes.
 - 2. Collaborative creators may each make one copy of the presentation.
 - E. **Licenses and Contracts**
 - 1. Educators and students should determine whether specific copyrighted works, or other data or information, are subject to a license or contract.
 - 2. Fair use and Jordan School District guidelines shall not preempt or supersede licenses and legal contractual obligations.
- V. **Audio-Visual Works**
- A. **Permissible**
 - 1. Creating a series of slides or overhead transparencies from multiple sources, such as magazines, books, encyclopedias, etc., not to exceed one photograph, drawing, chart, or diagram per source.
 - 2. Creating a single overhead transparency from a single page of a consumable workbook, not to exceed one page from the entire book.
 - 3. Duplicating visual or audio materials from a non-dramatic literary work or legally transmitting these and other copyrighted materials via cable or closed-circuit systems to provide materials for deaf or blind individuals.
 - B. **Prohibited**
 - 1. Duplicating audio recordings for archival, backup, or for multiple uses unless reproduction rights were given at the time of purchase.
 - 2. Reproducing musical works (i.e., a record, a tape, or CD, etc.) or converting a work from one form to another (such as transferring a record to a tape or a tape to a CD) unless such rights have been acquired from the copyright holder.
 - 3. Reproducing any audiovisual work in its entirety, except for off-air videotaping as per the guidelines found in the video section of this policy (Guidelines, B).
 - 4. Converting of one media format into another. (i.e. transferring a record to a tape.
 - 5. Narrating entire copyrighted stories onto audiotape.
- VI. **Bulletin Boards**
- A. Taking a copyrighted work (i.e., greeting cards, cartoons, and coloring books, etc.) and enlarging, modifying, or converting it to another medium violates the copyright holder's rights.
 - B. Purchased clip art is for the use of the purchaser only.
 - C. The use of original or public domain graphics is permitted.
- VII. **Internet Resources**
- A. Assume all materials on the Internet are copyrighted unless otherwise stated and that existing copyright guidelines apply. When in doubt, obtain written permission from the copyright holder.
 - B. When using information from the Internet, follow the Fair Use guidelines (photocopying, multimedia, etc.).
 - C. All Internet resources should be properly cited.
- VIII. **Web Page Publishing**
- A. When using material from other web sites, permission should be obtained from the copyright holder.
 - B. All sources should be properly cited.
 - C. Use clip art and graphics from sites that indicate these materials may be used without violation of copyright or from legally obtained software programs.
 - D. Trademarked logos may not be used.

IX. Computer Software

- A. It is the responsibility of educators and administrators to verify that all computer programs in the school are legally obtained and properly licensed.
- B. Using illegally copied software in schools or offices is prohibited.
- C. Software licensing agreements of copyright holders must be observed (i.e., single user, multiple user, lab packs, site licenses, etc.).
 - a. Multiple loading of software is prohibited without written permission from the copyright holder.
 - b. A network license is required to legally utilize software on a network.
- D. The legitimate owner of the software may make one copy to be used for archival (“back-up”) purposes only, or he/she may make a copy or adaptation of the program in order to use the program with the machine.
- E. School equipment may not be used to copy software illegally.
- F. Textual and graphic information from CD-ROM periodicals, encyclopedias, and other online databases may be copied if Fair Use guidelines are followed.

X. Distance Education

Distance education guidelines (The Technology, Education and Copyright Harmonization (TEACH) Act, November 2, 2002) permit instructors in educational institutions who meet the eligibility conditions to perform and display all types of copyrighted works with some limitations and additional responsibilities for instructors and transmitting institutions to assure compliance with the law.

A. Eligibility Conditions

1. Intent of Use

- a. Copyrighted works must be:
 - (1) Included at the direction of or under the actual supervision of the instructor.
 - (2) Part of systematic, mediated instructional activities.
 - (3) Directly related and of material assistance to the teaching content of the course.
- b. To incorporate text, video, motion media, music, lyrics, illustrations, or photographs or any other form of copyrighted work, educational Fair Use guidelines still apply with some limitations.
- c. The performance of a copyrighted work may not be used for entertainment purposes.

2. Transmission

- a. Transmission must be by an accredited non-profit educational institution.
- b. Reception must be for students officially enrolled in the course or employees performing official duties for the school district.
- c. Transmitting all of a non-dramatic literary work or non-dramatic musical work is allowed. Only “reasonable and limited” portions of any other type of display or performance are allowed. (Non-dramatic literary works as defined in the TEACH Act refer to and exclude audiovisual works.)

3. Responsibility of Transmitting Institution

- a. The transmitting institution must institute a copyright policy and provide informational materials regarding copyright to faculty, students and relevant staff that accurately describe, and promote compliance with copyright law.
- b. The transmitting institution must inform faculty, students and relevant staff that materials in a course may be subject to copyright protection under the law.
- c. Institutions must apply technological measures that prevent access to making copies of the work by recipients of the course and any unauthorized further dissemination of that work to non-employees of the institution.

- d. If the institution has obtained permission to use copyrighted material for a specific distance education class, the terms of that permission apply for that distance education course only.

B. Limitations

1. Performances or Displays Not Allowed

Copyright law does not allow:

- a. Works that are marketed primarily for transmission and instruction via digital networks.
- b. Unlawfully made or acquired copyrighted works.
- c. Commercial use of transmissions or recordings of broadcasts.

2. Portion and Time Limitations

- a. Films and videos of all types and dramatic musical works may only be shown as clips, not in their entirety.
- b. The performance of works other than non-dramatic literary or musical work or reasonable and limited portions of any other work should be in an amount comparable to that which is typically displayed in the course of a live classroom session.
- c. For a multimedia presentation developed by an instructor, the same time and portion limitations apply for the use of copyrighted materials as in Section IV, Educational Multimedia, in the *Operational Guidelines for Policy #DE505 – Use of Copyright Materials*. Fair Use guidelines apply for educator and student use.

3. Duplication and Retention of Copies of Broadcasts

- a. Multimedia projects: If the educational institution's transmission or network system cannot prevent duplication of copyrighted material, then educators may use copyrighted material in a multimedia project which they have created for only 15 days after its initial real-time remote use. After 15 days, any copyrighted portion of the project must be deleted.
- b. If copies are made of broadcasts, then no such copy shall be maintained on the system or network accessible to recipients for a longer period than is reasonably necessary to facilitate the transmissions for which it was made.
- c. An archival copy may be made of a transmission provided no further copies are made except for purposes allowed in Section 110(2), and it is used solely for transmission.
- d. Educators may record an instructional program for students who are enrolled in the class if that copy is stored in the media center for later viewing for a limited time only.
- e. Students should be advised that they are not permitted to make copies of a videotaped distance education class.

4. Photocopying in Distance Education Classrooms

- a. Making multiple copies of any material from consumable workbooks for students or for remote broadcast is specifically prohibited unless written permission has previously been obtained by the instructor or institution from the copyright owner for that class and any other classes receiving the transmission.
- b. Refer to Section II, Photocopying, in the *Operational Guidelines for Policy #DE505 – Use of Copyright Materials*. Fair Use guidelines apply for educator and student use.

5. Converting Analog to Digital Formats

Educators may not convert analog works to digital format unless:

- a. The amount to be converted is limited to the amount of appropriate works that can be displayed in Section 110(2) Copyright Law.

- b. A digital version of the work is “unavailable to the institution” or it is secured behind technological protection that prevents performing or displaying it in the distance education program.

XI. Obtaining Permission to Use Copyrighted Works

To obtain permission to copy a printed work, an image, or video, send a letter to the copyright owner or the publisher of the work with a description of how the material is to be used in the classroom or school and the number of copies that will be needed. (Letters with original signatures from the copyright owner indicating permission has been obtained are preferable over emails or phone permission, which may or may not be recognized by the courts). Following is a list of a few companies who deal in copyright permission:

- A. Copyright Clearance Center
222 Rosewood Drive
Danvers, MA 01923
(508) 750-8500
info@copyright.com
www.copyright.com
- B. Agencies that can arrange payment of royalties include:
 - 1. Harry Fox Agency
711 Third Avenue
New York, NY 10016
1-212-370-5330
Fax 1-212-953-2384
www.harryfox.com
 - 2. American Society of Composers, Authors and Publishers (ASCAP)
One Lincoln Plaza
New York, NY 10023-7129
1-212-621-6000 or 1-800-910-7346 Ext. 48
Fax: 212-956-2059
www.ascap.com
 - 3. BMI
320 West 57th Street
New York, NY 10019-4412
1-212-586-3450 or 1-615-401-2837
Fax: 212-397-4692
www.bmi.com
- C. Videos and TV Programs
 - 1. The Motion Picture Licensing Corporation
13315 Washington Boulevard, 3rd Floor
Los Angeles, CA 90066-5145
1-800-462-8855
Fax: 310-822-4440
Email: info@mplc.com
 - 2. Movie Licensing USA
201 South Jefferson Avenue
St. Louis, MO 63102-2579
1-888-267-2658
Fax: 1-877-876-9873
Email: mail@movlic.com